21.11.2007. Present: Mr.Ravinder Thakur, counsel for the appellants.
Mr.Dushyant Dadhwal, counsel for the respondent.

**CMP(M) No.869 of 2007:**

For the reasons stated in the application, the delay in filing the appeal is condoned. The appeal be registered. The application stands disposed of accordingly.

**LPA No.101 of 2007:**

A perusal of the record shows that the allegation against the respondent (original writ petitioner) was that while joining service, he made some alteration in his school certificate and changed his date of birth from 18.9.1955 to 18.9.1952.

On the basis of these allegations, the petitioner was served with a memorandum on 26th August, 1992. The petitioner replied to the same. An inquiry was conducted and the Inquiry Officer found that the respondent had in fact tampered with his date of birth. Thereafter, the Disciplinary Authority passed an order on 29th April, 1993 imposing the penalty of reduction of rank from Lance Naik Driver to Constable Driver for a period of two years from the date of the receipt of the order. It was further ordered that he would get his seniority in the rank of Lance Naik Driver only from the date of his re-promotion. The Disciplinary

Authority also ordered that the service rendered by the respondent prior to his attaining the age of 18 years will be treated as Boy service and would not be counted as qualifying service for pension etc.

After imposition of this penalty, the respondent continued in service, but more than 3 years later on 1st August, 1996, another show cause notice was issued to him as to why punishment of dismissal from service should not be inflicted upon him. The petitioner filed reply to this notice, which remained pending for another period of 3 years and on 14th December, 1999, he was again granted time to file representation in respect of the punishment. Finally, vide order dated 1st January, 2000, penalty of removal from service was imposed.

The learned Single Judge has held that the employer/appellant was not justified in reviewing the penalty already imposed upon the respondent, especially after a long period of time when the petitioner had been continuing in service. It is a trite principle of law that no person shall be punished twice for the same offence. No doubt, the Reviewing Authority has the right to enhance the punishment in a given case. However, this right must be exercised in a reasonable time. It is no body's case that the employer was not aware of the punishment imposed upon the employee. A major penalty had been imposed upon the employee. Therefore, the learned Single Judge was absolutely right in holding that the order dated 29.4.1993 could not have been revised more than six years after it had been passed.

Therefore, without commenting on the other aspects of the case, we feel that the order could not stand legal scrutiny. The appeal is, therefore, without any merit and the same is rejected. However, we feel that the costs of Rs.10,000/- imposed are on the higher side and the same are reduced to Rs.5,000/-.

**CMP No.728 of 2007:**

In view of the dismissal of the main appeal, this application also stands dismissed.

**(Deepak Gupta), J.**

**November 21, 2007.** **(V.K. Ahuja), J.**
**(TILAK)**